

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**This filing relates to the
Commonwealth, ERS and HTA.**

**REPLY OF THE COMMONWEALTH OF PUERTO RICO, THE EMPLOYEES
RETIREMENT SYSTEM OF THE GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO HIGHWAYS AND TRANSPORTATION
AUTHORITY TO THE RESPONSE FILED BY BENIVETTE RENTAS [ECF NO. 21595]
TO THE FOUR HUNDRED FIFTY-THIRD OMNIBUS OBJECTION (NON-
SUBSTANTIVE) TO CLAIMS ASSERTING LIABILITIES OWED BY ENTITIES THAT
ARE NOT TITLE III DEBTORS**

To the Honorable United States District Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), and the Puerto Rico Highways and Transportation Authority (“HTA,” and together with the Commonwealth and ERS,

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA,” and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

the “Debtors”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Debtors pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² file this reply (the “Reply”) to the response [Case No. 17-BK-3283-LTS, ECF No. 21595]³ (the “Response”) filed by claimant Benivette Rentas (“Rentas”) to the *Four Hundred Fifty-Third Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico, the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, and the Puerto Rico Highways and Transportation Authority to Claims Asserting Liabilities Owed by Entities That Are Not Title III Debtors* [ECF No. 20784] (the “Four Hundred Fifty-Third Omnibus Objection”). In support of this Reply, the Debtors respectfully represent as follows:

1. On June 22, 2018, Rentas filed a proof of claim in an undetermined amount against the Commonwealth, and it was logged by Kroll Restructuring Administration LLC as Proof of Claim No. 84345 (the “Rentas Claim”). The Rentas Claim asserted wages purportedly owed to Claimant by (i) the Commonwealth and/or (ii) the Ponce District Hospital, which was once a part of the Commonwealth but which was subsequently privatized.

2. On June 10, 2021, pursuant to the *Order (A) Authorizing Administrative Reconciliation of Claims, (B) Approving Additional Form of Notice, and (C) Granting Related Relief* [ECF No. 12274] (the “ACR Order”), the Rentas Claim was transferred into Administrative Claims Reconciliation (as defined in the ACR Order). *See Thirteenth Notice of Transfer of Claims to Administrative Claims Reconciliation* [ECF No. 16926].

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

³ Unless otherwise stated herein, ECF citations refer to documents filed in Bankruptcy Case No. 17-BK-3283-LTS.

3. Following the transfer of the Rentas Claim into Administrative Claims Reconciliation, in light of the determination that the Rentas Claim asserts both wages owed by the Commonwealth and wages owed by the Ponce District Hospital subsequent to its privatization, the Oversight Board bifurcated the Claim into two separate portions: one asserting liabilities purportedly owed by the Ponce District Hospital during the period when it was a part of the Department of Health and, accordingly, the Commonwealth, (Proof of Claim No. 84345, or the “CW Claim”); and one asserting liabilities purportedly owed by the Ponce District Hospital subsequent to its privatization (Proof of Claim No. 84345-1, or the “PDH Claim”).

4. On May 13, 2022, the Debtors (i) removed the PDH Claim from Administrative Claims Reconciliation, *see Notice of Removal of Certain Claims from Administrative Claims Reconciliation and Alternative Dispute Resolution* [ECF No. 20778] and (ii) filed the Four Hundred Fifty-Third Omnibus Objection seeking to disallow claims that seek recovery for asserted liabilities owed by entities that are not Title III debtors, each as set forth on Exhibit A thereto. In particular, the Four Hundred Fifty-Third Omnibus Objection sought to disallow, among other claims, the PDH Claim because it asserts wages owed by the Ponce District Hospital during a time period after the hospital’s privatization, when it was no longer part of the Department of Health, and, accordingly, not a Title III debtor or an agency of any of the Debtors. *See* Four Hundred Fifty-Third Omnibus Objection, Ex. A [ECF No. 20784-1] at 19 (objecting to the PDH Claim (Claim No. 84345-1) and not the CW Claim). The Fourth Hundred Fifty-Third Omnibus Objection made clear that the CW Claim was “transferred into the Administrative Claims Reconciliation (ACR) process and will be resolved consistent with the ACR procedures.” *Id.*

5. Any party who disputed the Four Hundred Fifty-Third Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on June 13, 2022 in accordance

with the Court-approved notice attached to the Four Hundred Fifty-Third Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the Four Hundred Fifty-Third Omnibus Objection, the U.S. Trustee, and the Master Service List (as defined in the *Sixteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 20190-1]). *See Certificate of Service* [ECF No. 21011].

6. On July 22, 2022, Rentas filed the Response. Therein, Rentas objects “to rejection of evidence . . . indicating that I only worked at the District Hospital of Ponce.” Response at 1. Further, Rentas states that she is “sending you evidence of continuity of work [with the] Commonwealth of Puerto Rico.” *Id.* The Response also attaches as supporting documentation salary reports from 1980 to 1985.

7. As set forth in the objection, in or around 1993, the Commonwealth began the privatization of Commonwealth-owned hospital facilities⁴ and, in accordance with that privatization, enacted Act 31 of July 6, 1997, which caused the transfer of the Ponce District Hospital to private ownership for management and operation. *See Exhibit A* attached hereto (letter dated May 26, 2000). Such transfer became effective on July 1, 2000. *Id.* Accordingly, as the Court has previously recognized,⁵ since the date the transfer became effective, Ponce District Hospital is not and has not been a Title III debtor or an agency of the Department of Health, the Commonwealth, or any of the other Debtors, and the PDH Claim, to the extent it asserts

⁴ See Alexis Raúl Santos-Lozada, *Transformations of public healthcare services in Puerto Rico from 1993 until 2010* (2013) at 3, available at <https://paa2013.princeton.edu/papers/132763>.

⁵ See December 14, 2022 Hr’g Tr. at 63:2-18 (sustaining the Four Hundred Fifty-Third Omnibus Objection as to proof of claim 179281-1 on the basis that “that any services to the [Ponce District] hospital provided by claimant after that point [June 30, 2000] are not liabilities of the Commonwealth or any other Title III debtor.”).

liabilities arising from the period from and after the transfer of Ponce District Hospital to private ownership, must be disallowed.

8. To the extent the Commonwealth is liable to the Claimant with respect to work performed by the Claimant for the Ponce District Hospital prior to July 1, 2000, such liability will be determined in accordance with the resolution of the CW Claim, currently in the Administrative Claims Reconciliation process, without prejudice to the rights of the Commonwealth to object to the CW Claim on any ground whatsoever. For the avoidance of doubt, the CW Claim is not the subject of the Four Hundred Fifty-Third Omnibus Objection.

9. For the foregoing reasons, the Debtors respectfully request that the Court grant the Four Hundred Fifty-Third Omnibus Objection and disallow the PDH Claim.

[Remainder of Page Intentionally Left Blank]

Dated: April 11, 2023
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

Hermann D. Bauer

USDC No. 215205

Carla García Benítez

USDC No. 203708

Gabriel A. Miranda

USDC No. 306704

O'NEILL & BORGES LLC

250 Muñoz Rivera Ave., Suite 800

San Juan, PR 00918-1813

Tel: (787) 764-8181

Fax: (787) 753-8944

/s/ Brian S. Rosen

Martin J. Bienenstock (*pro hac vice*)

Brian S. Rosen (*pro hac vice*)

PROSKAUER ROSE LLP

Eleven Times Square

New York, NY 10036

Tel: (212) 969-3000

Fax: (212) 969-2900

*Attorneys for the Financial Oversight and
Management Board as representative for the
Commonwealth of Puerto Rico, the
Employees Retirement System of the
Commonwealth of Puerto Rico, and the
Puerto Rico Highways and Transportation
Authority*